XIIIA

REPORT

OF THE

CALCUTTA COURT OF SMALL CAUSES

FOR THE YEAR 1882.

Calcutta:
PRINTED AT THE BENGAL SECRETARIAT PRESS.
1883.

No. 70.

FROM

THE JUDGES OF THE COURT OF SMALL CAUSES OF CALCUTTA,

TO

THE SECRETARY TO THE GOVERNMENT OF BENGAL,

JUDICIAL DEPARTMENT.

Dated Calcutta, the 26th February 1883.

SIR,

WE have the honor to forward, for submission to His Honor the Lieutenant-Governor of Bengal, the report and statements of the business of this Court for the year 1882.

2. A copy of our annual report to the High Court is herewith annexed, from which the working of the Court will appear. The reasons for the decrease of 4,555 suits will be seen from that report.

3. Though there is a decrease in the number of institutions, the financial working of the Court is still satisfactory, showing a balance of Rs. 66,701 to the credit of the Court.

4. We desire to refer to some remarks made in the resolution of the Government of Bengal, dated the 29th May 1882, on our annual report for the year 1881. The remarks referred to run thus:—"One of the reasons given in the report for the increase of work is that a larger number of cases is now contested than formerly. This explanation is not, however, borne out by the returns, which show that the number was lower in 1881 than in any year since 1868-69." The resolution then sets out certain figures. We have ascertained that these figures are capable of explanation, the falling off in the years 1880 and 1881 not being the serious falling off as represented by the figures set out.

5. The explanation is this.—Up to the end of the year 1879 the returns of the Court were made subject to the control of the local Government on forms then in use; from the commencement of 1880 the returns were made on forms supplied by the High Court. In the old forms there was a column of judgments in favor of plaintiffs, "contested and by confession:" the result was that the contested cases always included judgments by confession. In the forms supplied by the High Court the two are separated, judgments by confession being excluded from the category of contested cases. Contested cases, therefore, up to the end of the year 1879 included judgments by confession; but since that year they have been excluded. In 1880 judgments by confession were 2,592, and in 1881 2,176. On the old lines, therefore, the figures for the last few years would stand thus:—

1876-77	...	...	8,577	1879	...	...	9,513
1877-78	...	...	8,904	1880	...	...	9,337
1878-79	...	...	10,264	1881	...	...	8,782

Further reference to the annual reports will show these statements to be correct. Up to 1880 the headings were—

Decreed in favour of plaintiff after trial.
Ditto ditto *ex parte*.

After the commencement of 1880 they were—

Decreed in favor of plaintiff after contest.
Ditto ditto without ditto

The figures for a few years on the old system therefore will be—

1877-78.—Decreed in favor of the plaintiff *ex parte*			...	...	... 6,938
1878-79.	Ditto	ditto	...	...	... 8,109
1879.	Ditto	ditto	...	...	... 8,463
1880.—Decreed in favor of the plaintiff without contest			...	...	... 10,266
1881.	Ditto	ditto	...	...	... 9,326

The increase in these figures in the years 1880 and 1881 will come near the decrease in the figures of the years 1880 and 1881, as shown in the resolution.

6. As pointed out in our letter to the High Court, the new Act and procedure has certainly added to the *work* of the Court, if the cases have somewhat diminished in number. If cases should again increase to any appreciable extent, the question of another Judge will have to be reconsidered. The number of cases pending at the close of the year was in excess of that at the end of 1881, and the greater number of applications to the Court, under the Code, take up a good deal of time which was formerly devoted to the trying of cases. On the whole, the work of the present Judges has not been lightened by the decrease in the number of cases.

We have the honor to be,

SIR,

Your most obedient servants,

H. MILLETT,
KOONJO LALL BANERJEE,
R. S T. MACEWEN,
G. C SCONCE,
} *Judges.*

No. 1.

Comparative Statement of Commission and Fees (in stamps) realized and Credited to Government in 1881 *and* 1882.

N.B.—The following figures show the *gross* realizations in stamp fees as credited to stamp revenue. In previous years the *net* fees, *i.e.* exclusive of refunds of stamp duties in compromised cases, which should properly be treated as charges against the stamp revenue, instead of being deducted from the receipts, were reported under a misconception.

Months.	On account of fees received in the institution and prosecution of suits, and on account of distresses for rent, &c.		Increase or decrease + (plus) or — (minus).	Remarks.
	In 1881.	In 1882.		
	Rs. A. P.	Rs. A. P.	Rs. A. P.	
January	25,950 9 0	27,578 15 6	1,628 6 6	*N.B.*—The figures with minus sign indicate decrease.
February	21,627 15 6	26,712 6 6	5,084 7 0	
March	25,577 10 0	28,699 8 6	3,121 14 6	
April	22,437 11 6	21,204 12 6	—1,232 15 0	
May	26,793 4 6	26,452 8 6	—340 12 0	
June	24,926 8 6	26,700 15 0	1,774 6 6	
July	25,178 10 0	20,077 5 0	—5,101 5 0	
August	26,526 5 6	27,070 5 0	543 15 6	
September	24,788 1 6	29,711 14 6	4,923 13 0	
October	5,800 8 0	10,005 6 6	4,204 14 6	
November	27,535 3 0	10,894 8 0	—16,640 11 0	
December	19,870 1 6	19,405 7 6	—464 10 0	
Total ...	2,77,012 8 6	2,74,514 1 0	—2,498 7 6 or decrease of ·9 per cent nearly.	

	Rs. A. P.
Total increase	21,281 13 6
Less total decrease	23,780 5 0
Net decrease	—2,498 7 6

COURT OF SMALL CAUSES OF CALCUTTA, R. SEN,

The 26*th February* 1883. *Offg. Registrar, Court of Small Causes of Calcutta.*

No. 2.

Abstract Statement of Sums received and paid out to Suitors and others from 1*st January to* 31*st December* 1882.

Months.	Cash received on account of suitors, &c.	Cash paid out to suitors, &c.
	Rs. A. P.	Rs. A. P.
January	38,949 11 6	36,448 12 9
February	29,073 11 9	29,620 11 5
March	29,880 3 3	32,658 3 5
April	21,356 15 6	18,475 7 6
May	28,637 9 11	33,905 4 4
June	33,780 0 3	30,532 4 2
July	32,419 9 0	26,120 15 3
August	40,335 0 2	35,512 2 7
September	37,748 4 2	38,519 3 8
October	25,959 6 2	28,776 9 5
November	23,629 10 6	17,870 5 0
December	23,655 5 1	26,080 10 9
Total ...	3,65,424 7 3	3,54,520 15 3

COURT OF SMALL CAUSES OF CALCUTTA, R. SEN,

The 26*th February* 1883. *Offg. Registrar, Court of Small Causes of Calcutta.*

No. 3.

Statement showing the Statistics of the Distraint Department from 1st January to 31st December 1882.

Months.	Amount of rent for which distresses were made.	Commission and fees paid (in stamps).
	Rs. A. P.	Rs. A. P.
January	1,841 5 0	256 8 0
February	3,482 3 3	512 0 0
March	4,148 11 3	626 8 0
April	9,708 7 2	1,377 12 0
May	11,061 6 8	1,610 12 0
June	11,996 4 11	1,766 0 0
July	2,699 14 6	435 4 0
August	2,564 0 6	414 8 0
September	3,211 9 0	527 4 0
October	2,455 8 0	355 8 0
November	4,897 11 0	714 0 0
December	7,326 15 3	1,105 8 0
Total ...	65,394 0 6	9,701 8 0

Court of Small Causes of Calcutta, R. Sen,

The 26th February 1883. *Offg. Registrar, Court of Small Causes of Calcutta.*

No. 4.

Statement showing the Amount of Fines from 1st January to 31st December 1882.

Months.	Amount.	Months.	Amount.
	Rs. A. P.		Rs. A. P.
January	12 8 0	July	10 0 0
February	.....	August	.....
March	.....	September	15 0 0
April	24 1 0	October	2 0 0
May	7 0 0	November	.....
June	5 0 0	December	3 0 0
		Total ...	78 9 0

Court of Small Causes of Calcutta, R. Sen,

The 26th February 1883. *Offg. Registrar, Court of Small Causes of Calcutta.*

No. 5.

Statement showing the Salaries of the Judges, Costs of the Establishments, Contingent and other charges, from 1st January to 31st December 1882.

N B.—The actual charge on account of refunds of stamp duties, &c., has been shown in the statement, in supersession of former practice, as the item is properly an expenditure against stamp revenue.

Months.	Salaries of the Judges (4).	Establishment charges, including salary of the Registrar.	Commission allowed to bailiffs.	Contingent charges.	Refunds of stamp duties in compromised cases.	Total.
	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.
January	5,741 10 8	6,940 6 3	314 2 0	38 11 9	3,850 8 0	16,885 6 8
February	5,741 10 8	6,941 14 6	361 4 0	39 4 0	4,664 1 6	17,748 2 8
March	6,272 14 8	6,934 8 0	325 14 0	126 10 6	5,514 2 0	19,173 13 2
April	6,450 0 0	6,969 0 9	392 10 0	126 10 6	4,866 6 0	18,804 10 6
May	6,450 0 0	7,111 7 9	286 10 0	103 3 9	4,324 13 3	18,276 2 9
June	6,450 0 0	7,322 5 4	272 4 0	136 12 6	4,323 13 3	18,504 3 1
July	6,450 0 0	6,933 7 9	332 14 0	204 2 0	3,057 9 3	16,997 1 0
August	6,450 0 0	6,932 15 0	422 10 0	157 4 6	3,331 9 3	17,294 7 6
September	6,450 0 0	6,934 0 0	405 12 0	120 9 3	3,923 7 0	17,539 12 3
October	6,450 0 0	6,934 0 0	378 12 0	389 7 9	3,593 12 9	17,745 0 6
November	6,450 0 0	6,939 12 6	292 6 0	99 10 6	962 2 6	14,744 5 6
December	6,450 0 0	6,977 0 0	178 8 0	58 10 6	3,033 4 6	16,697 7 0
Total ..	75,806 4 0	83,870 8 10	3,983 10 0	1,005 1 6	45,144 15 3	2,10,410 7 7

Court of Small Causes of Calcutta, R. Sen,

The 26th February 1883. *Offg. Registrar, Court of Small Causes of Calcutta.*

No. 6.

Statement showing the total amount under the following detailed heads as credited to Government from 1st January to 31st December 1882.

N.B.—The actual gross realizations have been shewn in supersession of previous practice, (*i.e.*) the refunds of stamp duties have been shewn properly as charges against stamp revenue, instead of being deducted from the assets.

Months.	Commission and fees paid in stamps (gross).	Fines (see statement No. 4).	Unclaimed suitors' money.	Miscellaneous or refunded charges.	Total amount credited.
	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.
January	27,578 15 6	12 8 0	.....	.....	27,591 7 6
February	26,712 6 6	.....	.....	*0 8 0	26,712 14 6
March	28,699 8 6	.....	720 15 3	.....	29,420 7
April	21,204 12 6	24 1 0	167 6 6	.....	21,396 4 0
May	26,452 8 6	7 0 0	186 4 0	.....	26,645 13 3
June	26,700 15 0	5 0 0	221 15 0	†10 14 3	26,938 12 3
July	20,077 5 0	10 0 0	166 1 0	.....	20,253 6 0
August	27,070 5 0	.....	344 15 3	.....	27,415 4 3
September	29,711 14 6	15 0 0	209 6 9	.....	29,936 5 3
October	10,005 6 6	2 0 0	49 10 6	‡2 0 0	10,059 1 0
November	10,894 8 0	.....	237 0 9	.....	11,131 8 9
December	19,405 7 6	3 0 0	169 3 9	§31 9 10	19,609 5 1
Total ...	2,74,514 1 0	78 9 0	2,472 15 6	45 0 1	2,77,110 9 7

* Recovery of cooly hire.

† Of this Rs. 6-4 being sale proceeds of an old clock, annas 7 recovery of a bearing postage charge, and Rs. 4-3-3 valu of unclaimed postage stamps.

‡ Value of unclaimed postage stamps.

§ Value of unclaimed postage stamps.

COURT OF SMALL CAUSES OF CALCUTTA, R. SEN,

The 26th February 1883. *Offg. Registrar, Court of Small Causes of Calcutta.*

No. 7.

Statement of Indigent Debtors relieved from 1st *January to* 31*st December* 1882, *prepared in conformity with Mr. Eden's letter No. 873J, dated* 1*st October* 1863.

Date and Month.	Names of parties relieved.	Amount paid.
		Rs. A. P.
12th January	Soobodhonee Barcewallee (by order of the 2nd Judge)	6 0 0
15th March	G. Aviett (by Chief Judge)	38 7 3
1st April	Mr. and Mrs. Warburton (by Chief Judge)	40 0 0
19th do.	Bachoo Rozuck (by 2nd Judge)	6 2 0
5th May	C. A. Jackson (by Chief Judge)	22 6 3
2nd June	Mrs. Lafez (by 3rd Judge)	1 12 0
6th July	J. L. Payne (by 4th Judge)	9 11 6
5th September	Ditto (by Chief Judge)	9 11 6
	Total ...	134 2 6

COURT OF SMALL CAUSES OF CALCUTTA, R. SEN,

The 26th February 1883. *Offg. Registrar, Court of Small Causes of Calcutta.*

No. 65, dated Calcutta, the 16th February 1883.

From—The Judges of the Court of Small Causes of Calcutta,
To—The Registrar, High Court, Appellate Jurisdiction, Calcutta.

WE have the honor to submit our report to the Hon'ble the Judges of the High Court of the business of this Court for the year ending 31st December 1882.

2. The number of suits instituted during the year was 29,553, as against 34,108. The following comparative table shows the increase and decrease of institutions during the year :—

Value of Suits.	1881.	1882.	Increase.	Decrease.
Up to Rs. 10	13,145	10,776	.....	2,369
„ 50	14,080	12,180	.....	1,900
„ 100	3,070	2,851	.....	219
„ 500	3,183	3,050	.....	133
„ 1,000	625	612	.....	13
Over Rs. 1,000	55	134	79	.....
Total	34,108	29,553	79	4,634
Deduct increase	.....	.....	.....	79
Total decrease	.....	.....	.....	4,555

3. The cases were disposed of as follows :—

Pending in 1881	1,333
Instituted in 1882	29,553
	30,886
Decreed in favor of plaintiff after contest	4,397
Ditto without ditto	8,141
Dismissed after trial	1,358
Non-suited or withdrawn	1,641*
Compromised	11,040
Struck off or dismissed for default of plaintiff	2,704
Dismissed uncontested	48
Pending at the close of the year	1,557
	30,886

4. The miscellaneous business is classified as follows :—

Commissions from other Courts to examine witnesses	41
Distraint applications	373
Mofussil processes served	1,821

* These suits may under the present procedure be really considered *contested* cases, for usually it is not until a case has proceeded some way that the plaintiff finds that he must elect to withdraw.

5. With respect to the condition of the court-house, the state of the record-room, and the condition of the library, we have nothing to add to what was stated in paragraphs 5, 6, and 7 of last year's report.

6. On the 1st July 1882, Act XV of 1882 (Presidency Small Cause Courts Act, 1882) came into force, and with it a considerable change in the procedure of the Court, as well as an extension of the pecuniary jurisdiction up to Rs. 2,000. There has been a decrease of 4,555 suits.

7. The old procedure was extremely simple. There was no necessity for a party to a suit to be present either personally or by pleader, but it was sufficient if he was represented by "a relative, servant, or member of his establishment in his exclusive employ." Now that the provisions of sections 36 and 37 of the Code of Civil Procedure are in force, the trouble entailed on a party desirous of bringing a suit is greater. Under the old practice, the cause of action as set out in the plaint, was exceedingly short and concise, and gave no particulars of the claim, *i.e.* "for goods sold and delivered," "for work and labour done," "for wages due by you to plaintiff," and so on, and verification was not necessary. Now particulars have to be given as required by section 49, clause (*d*), and the plaint must be signed and verified under section 51. This necessitates the attendance of the plaintiff in person, or some one on his behalf acquainted with the facts of the case; and when the plaintiff does not sign the plaint, it must be signed by his recognised agent. It will readily be seen that these provisions tell upon small suits and poor suitors. At the same time we are not prepared to advocate a return to the old practice.

8. The statements made in the last paragraph, we believe, account for the falling off of suits, especially those below Rs. 50. The effect of the change was at once obvious, for during the month of July comparatively few suits were instituted. As, however, the people became more accustomed to the

change, suits began to increase until, for a month or so before the Doorga Poojah holidays, the files became choked with the rush that usually takes place about that time.

9. The tabulated statement set out in paragraph 2 shows that there has been a decrease, more or less, in all suits up to Rs. 1,000; but we do not attach much importance to the decrease of suits above Rs. 50. The decrease itself is small, these cases not being, in our opinion, affected in the same degree by the provisions of sections 36, 37, 49, and 50 of the Code as the smaller cases. Some allowance also must be made for the fact that the procedure was new, and that the Act excludes some cases which were formerly brought in the Court, such as suits for malicious prosecutions and for partnership accounts, and that there was no restriction in the filing of plaints against non-resident defendants. Cases of these kinds were numerous, and often for considerable sums Ordinary fluctuations must also be taken into account. The year 1882 was prosperous, and not one in which we could expect an influx of litigation. We believe, therefore, that the procedure under the Code has had little to do with the decrease of cases above Rs. 50. On the other hand, there have been more suits under the extended jurisdiction than we anticipated. The cases over Rs. 1,000 number 168 in all. Of these 34 were instituted before the 1st July by abandoning the excess in each case, and 134 in the half-year since that date. We were led to expect 200 to 250 for the whole year. The 34 instituted before the 1st July are included in the 612 set down under the head of cases below Rs. 1,000.

10. With reference to the extended jurisdiction and section 38 of Act XV of 1882, we may mention that of the 134 cases above referred to 61 were disposed of; of which 56 were decreed, 3 dismissed, and 2 withdrawn, and there has been no instance of the High Court having called for the record from this Court for the purpose of a rehearing by it.

11. Though the number of small suits has decreased, the work has by no means done so. Each Judge in turn (including the Registrar) has to decide cases of a higher value than those tried by him formerly, and that because the Chief Judge (who tries all cases above Rs. 1,000, which are of the most importance) has been obliged to distribute among the other Judges a number of cases above Rs. 500 which were hitherto tried by him. It is hardly necessary to point out to the Hon'ble Judges of the High Court that the higher in value cases are the longer they take to try when contested; and as a matter of fact the postponed board of the Judges is higher than it was before—a result which is as troublesome to the Judges as it is inconvenient to suitors, who in this Court always look to a speedy decision of their causes, which is the chief recommendation of the Court. In addition to this, the new procedure has made way for applications of a class never previously entertained. Of these the most important are—

Applications under section 18 of Act XV of 1882.
Applications for arrest or attachment before judgment.
Applications for substituted service of summonses and notices.
Applications to substitute legal representatives under chapter XXI of the Code.
Applications to appoint guardians to minors under chapter XXXI of the Code.

Four hundred and three applications under section 18 of the Act were heard by the Chief Judge during the half-year; of these 54 were refused and 349 admitted. In a large number of the latter, reasons had to be recorded in writing in accordance with clause (*a*) of the section.

12. The Court of the Registrar may be said now to be inundated with miscellaneous applications, a large number of which arise out of the new procedure. It is calculated that on an ordinary day it takes at least an hour and a half to dispose of such applications. This therefore leaves him no sufficient time for the numerous small cases on his board—often as many as 60 or 70, and a redistribution of these cases has had in consequence to be made to the Second, Third, and Fourth Benches.

13. The decrease in the number of institutions will also account for the decrease in the returns generally shown in all the annual statements. We remark, however, that there were 3,079 suits on contracts not in writing

disposed of in 1882, as against 2,563 in 1881. No particular phase of litigation enables us to give any reason for the increase, unless it be that the sudden withdrawal of the import duty in April gave rise to some suits; but not in sufficient numbers to account for the difference shown. We can only therefore conclude that it is a fluctuation of a nature which may from time to time occur.

14. Claims under section 278 of the Code of Civil Procedure have for this year been entered as interpleader suits, so that we might be able to judge whether such a class of cases has increased or decreased. We find that there has been some increase, which may be entirely attributed to the circumstance that tiled huts and other kinds of property not previously liable to seizure may now be attached in execution of decrees, and to the fact that claims under section 278 need not bear the stamp which was formerly required on interpleader suits. We may venture to predict that this class of cases will now increase still more. Such will, for the future, be placed under the head of miscellaneous cases.

15. We also remark that columns 20 and 21 of annual statement show a considerable increase in the amounts realized under decrees. The reason of this is, as far as we can judge, twofold: firstly, that the increased jurisdiction (up to Rs. 2,000) renders it more likely that larger amounts will be paid in court under decrees; secondly, that the new procedure gives greater facilities to decreeholders for obtaining execution of their decrees than existed formerly.

16. We regret to state that the litigation of the year shows an increased tendency on the part of the trading community to deal in purely speculative contracts. Formerly such classes of contracts were confined to Government securities (the amount generally being Rs. 25,000) or to shares, now we find they have been extended to gunny-bags and yellow metal; the contention of the parties in many of these cases not being in actual *bonâ fide* sale on one side or a purchase on the other, but simply to recover the difference, if any, of the market value of the goods on the date of delivery.

17. 1,950 processes were sent from the Mofussil Courts for service in Calcutta. Of these, 1,821 were served and 90 remained in hand at the end of the year.

18. The amount in litigation during the year was Rs. 18,28,342-13-6½. The fees, &c., received amounted to Rs. 2,77,111. The costs of Judges' salaries, establishment, &c., amounted to Rs. 2,10,410, and the sum of Rs. 66,701 was carried to the credit of the Court after paying all expenses.

19. Mr. H. Millet returned from furlough on 8th February 1882 and resumed the office of First (now Chief) Judge, Messrs. MacEwen and Woodman reverting to their substantive appointments.

ANNUAL STATEMENT 1 (CIVIL).

FOR THE DISTRICT JUDGESHIP OF THE CALCUTTA COURT OF SMALL CAUSES FOR THE YEAR 1882.

PART I.—*List of Judicial Divisions, with Area and Population.*

1.	Name of District Judgeship	... Calcutta Court of Small Causes.
2.	Name of Collectorate	... Presidency.
3.	Names of Moonsifees	... None.
4.	Area in square miles	... 8 miles.
5.	Population	... 433,219.

PART II.—*Return showing the total number of Judicial and Revenue Officers exercising jurisdiction in Civil and Revenue cases at the close of the year, their class, and powers. Also the number of working days that officers of each class employed in the district during any part of the year were engaged in each department.*

DISTRICT CALCUTTA.

Small Cause Court Judges—			
2. Exercising Civil powers only			5
Total number of working days employed—			
6. On Civil work			265
Officers exercising original jurisdiction only—			
Small Cause Court Judges, Presidency—	European		4
	Native		1

CALCUTTA SMALL CAUSE COURT,
The 16th February 1883.

THOMAS JONES,
Registrar.

PART III.—*Statement showing the Receipts and Charges of the several grades of Civil Courts and the proportion of the salary of Judicial Officers debitable to Civil Justice.*

COURTS AT THE PRESIDENCY.

PRESIDENCY SMALL CAUSE COURT.

		Rs.
Receipts—		
In Small Cause Court stamps—		
2. Process fees		2,74,192
3. Other fees		322
In cash or special stamps—		
4. Fines		78
5*a*. Other receipts credited to Government		2,518
6. Total		2,77,111
Charges—		
Salaries of Judicial Officers—		
7. Gross		75,806
8. Share debitable to Civil Justice		75,806
Establishment—		
9. Process-servers		6,035
10*a*. Others		77,835
Contingencies—		
11*a*. Other contingencies		1,605
12. Refunds		49,129*
13. Total of columns 8 to 12		2,10,410

* Includes Rs. 3,984 as commission to bailiffs.

CALCUTTA SMALL CAUSE COURT,
The 16th February 1883.

THOMAS JONES,
Registrar.

ANNUAL STATEMENT 2 (CIVIL).

Statement showing the Number and Description of Civil Suits instituted in the Civil and Revenue Courts in the Calcutta Court of Small Causes in the year 1882.

COURTS AT THE PRESIDENCY.

PRESIDENCY SMALL CAUSE COURT.

		Rs.
Suits for money or movable property—		
2. Contract in writing		4,426
3. Contract not in writing		3,079
4. On account stated		786
5. Money had and received		563
6. Goods sold		11,219
7. Wages, work, and materials		4,073
8. Rent not falling under the Rent Law		2,948
9. Movable property or value thereof		394
10. Damages		525
12. Total		28,013
Title and other suits—		
36. Interpleader suits		359
39 Other suits not falling under any of the previous heads		1,181
40. Total		1,540
41. Grand Total		29,553

CALCUTTA SMALL CAUSE COURT,
The 16th February 1883.

THOMAS JONES,
Registrar.

ANNUAL STATEMENT 3 (CIVIL).

Statement showing Number and Value of Suits instituted in the Civil and Revenue Courts in the Calcutta Court of Small Causes in the year 1882.

COURTS AT THE PRESIDENCY.

PRESIDENCY SMALL CAUSE COURT.

Number of suits instituted in the different courts—					
Value not exceeding Rs. 10—					
2. Suits for money or movables	...	...	...	10,025	
4. Title and other suits	...	...	...	751	
Value not exceeding Rs. 50—					
6. Suits for money or movables	...	...	...	10,690	
7. Title and other suits	...	...	...	1,440	
Value not exceeding Rs. 100—					
8. Suits for money or movables	...	...	...	2,490	
10. Title and other suits	...	...	...	361	
Value not exceeding Rs. 500—					
11. Suits for money or movables	...	...	...	2,777	
13. Title and other suits	...	...	...	273	
14. Value not exceeding Rs. 1,000	...	...	...	612	
15. Value not exceeding Rs. 5,000	...	...	...	134	
20. Total	...	...	...	29,553	
21. Total value of suits	...	...	...	18,28,342	13 6½

CALCUTTA SMALL CAUSE COURT,
The 16th February 1883.

THOMAS JONES,
Registrar.

ANNUAL STATEMENT 4 (CIVIL).

PART I.—CIVIL SUITS.—*Statement showing the general result of the trial of Civil and Revenue cases in the Courts of Original Jurisdiction in the Calcutta Court of Small Causes in the year* 1882.

COURTS AT THE PRESIDENCY.

PRESIDENCY SMALL CAUSE COURT.

Number of suits before the courts—					
2. Pending from last year	...	...	...	...	1,333
3. Instituted in 1882	...	...	...	...	29 553
6. Total for disposal	...	...	...	...	30,886
Number of suits disposed of—					
Without trial—					
11. Dismissed for default or want of prosecution			...	...	2,704
12. Withdrawn with leave	...	...	...	...	1,641
Without contest—					
13. Compromised	...	...	...	...	11,040
14. Decreed on confession	...	...	...	...	1,980
15 Decreed *ex parte*	...	...	...	...	6,161
16. Dismissed *ex parte*	...	...	...	...	48
On reference to arbitration—					
17. For plaintiff	...	...	...	...	340
18. For defendant	...	...	...	...	116
With contest—					
19 Judgment for plaintiff in whole or part		...	...	...	4,057
20. Judgment for defendant	...	...	...	...	1,242
21. Total disposed of, omitting transfers		...	...	...	29,329
22. Pending at close of year	...	...	...	...	1,557
23. Number of cases pending more than three months at the close of the year	...	...	...	...	228
Average duration of suits—					
Contested—					
24. Number of cases (columns 17 to 20)		...	...	...	5,755
25. Aggregate number of days occupied in trial		...	...	...	316,489
26. Average number of days	...	...	...	...	54 8
Uncontested—					
27. Number of cases (columns 10 to 16)		...	...	...	23,574
28. Aggregate number of days occupied in trial		...	...	...	242,256
29. Average number of days		...	...	...	10·2

CALCUTTA SMALL CAUSE COURT,
The 16th February 1883.

THOMAS JONES,
Registrar.

PART II.—MISCELLANEOUS CASES (JUDICAL).—*Statement showing the general result of the trial of Civil and Revenue cases in the Courts of Original Jurisdiction in the Calcutta Court of Small Causes in the year* 1882.

COURTS AT THE PRESIDENCY.

PRESIDENCY SMALL CAUSE COURT.

2.	Suits remaining from last year	2
3.	Instituted in 1882	371
8.	Total for disposal	373
	Disposed of—	
	Without contest—	
15.	Decreed *ex parte*	341
	With contest—	
19.	Judgment for plaintiff in whole or part	11
20.	Judgment for defendant...	13
21.	Total of columns 10 to 20, *i.e.* disposed of, omitting transfers	368
22.	Pending at close of year	5

Remarks—

Miscellaneous cases include only commissions received and executed by the Court as coming from other courts, and distraint cases (not being interpleader claims) under the Distress Act, 1875. In the latter class of cases, for the purpose of this statement, landlords are considered as plaintiffs and tenants as defendants.

The total of 368 in column 21 relates to distraint cases only ; commissions executed cannot be included under those heads.

CALCUTTA SMALL CAUSE COURT, THOMAS JONES,

The 16th February 1883. *Registrar.*

ANNUAL STATEMENT 6 (CIVIL).

Statement showing the result of proceedings on applications for the execution of the decrees of the Civil and Revenue Courts in the Calcutta Court of Small Causes in the year 1882.

COURTS AT THE PRESIDENCY.

PRESIDENCY SMALL CAUSE COURT.

	Number of applications dealt with—	
2.	Pending at the end of 1881	467
	Filed—	
3.	The decrees being those of the Court where execution is taken out	14,186
4.	The decrees being those of other Courts transferred for execution	126
6.	Total	14,779
	Applications disposed of—	
	Transferred—	
7.	To another Court under section 223	273
9.	Wholly or partly satisfied	10,264
10.	Wholly infructuous	3,887
11.	Total	14,424
12.	Pending at the end of 1882	355

Details of entries in column 9—

14.	Satisfaction obtained in full	5,565
15.	Satisfaction obtained in part	4,699
16.	Satisfacton obtained through the Court	8,684
17.	Adjusted under section 258	1,580
18.	Satisfaction obtained with the issue of process	4,128
19.	Satisfaction obtained without the issue of process ...	6,136

Amount realized—

		Rs.	A.	P.
20.	With the issue of process	1,95,539	8	6
21.	Without the issue of process	2,02,254	2	10

Number of applications—

22.	On which the judgment-debtor was imprisoned	417
23.	On which he was arrested under section 336, but released without imprisonment	276

On which his movable property—

24.	Was sold	624
25.	Was attached, but subsequently released under section 275 ...	1,331

On which possession was given—

31.	Of immovables, sections 263 and 264	64

Remarks—

Note the number of entries in columns 4 and 7, where the decrees have been transferred from or to another province—

Details of column 4—

North-Western Provinces	2
Bombay	2
Oudh	4
Madras	1
Rangoon	1
Total	10

Details of column 7—

North-Western Provinces	10
Punjaub	12
Madras	1
Rangoon	11
Total ...	34

CALCUTTA SMALL CAUSE COURT,
The 16th February 1883.

THOMAS JONES,
Registrar.

W. H. D'C.—Reg. No. 15062J—240—7-8-83

RESOLUTION.

JUDICIAL.

Darjeeling, the 12th April 1883.

READ—

The Report on the Calcutta Court of Small Causes for the year 1882.

THE law regulating the constitution, powers, and procedure of the Court was amended during the year by the Presidency Small Cause Courts' Act XV of 1882, which came into force on the 1st of July last. Among the changes made, the most important was the extension of the Court's pecuniary jurisdiction from Rs. 1,000 to Rs. 2,000. The large number of suits exceeding Rs. 1,000 in value, which has been already instituted, shows that this provision has been acceptable to the mercantile and trading community, and is appreciated. The application of certain portions of the Code of Civil Procedure to the Court has also caused some modification of its procedure. The Judges report that the new procedure is less simple, and entails more trouble on suitors than that formerly observed, but they do not advocate a return to the old practice. Parties were formerly permitted to appear by "a relative, servant, or member of his establishment in his exclusive employ:" now they must attend personally, or be represented by a pleader, unless they reside beyond the limits of the Court's local jurisdiction, in which case they may appear by a recognized agent. This constitutes the main difference between the old and the new procedure, and the Lieutenant-Governor does not consider it of sufficient importance to justify any recommendation for the amendment of the present law, especially within so short a period after its enactment. The more frequent necessity for the employment of a pleader, under which the suitors now lie, doubtless tends to increase their expenses; but the number of legal practitioners is already so large, and the competition among them necessarily so great, that the charge for their services cannot ordinarily add much to the cost of prosecuting a claim in the Court. The Lieutenant-Governor has, moreover, recommended, in connection with the amendment of the Court Fees' Act, which has been for some time under consideration, a reduction of the fee chargeable on the documents by which pleaders are authorized to appear in cases, and some relief will be given to suitors if this suggestion is adopted.

2. The number of suits which came before the Court in the last two years, and the manner in which they were disposed of, are shown in the following statement:—

	1882.	1881.
Pending from the previous year	1,333	1,288
Instituted during the year	29,553	34,108
	30,886	35,396
Decreed in favour of the plaintiff after contest ...	4,397	5,185
Ditto ditto without ditto ...	8,141	9,326
Dismissed after trial	1,358	1,431
Nonsuited or withdrawn	1,641	2,398
Compromised	11,040	12,586
Struck off or dismissed for default of plaintiff ...	2,704	3,085
Dismissed uncontested	48	52
Pending at the close of the year	1,557	1,333
	30,886	35,396

There was thus a decline of 4,555 in the number of suits instituted in the past year. The decrease occurred in suits of all values, with the exception only of those for sums exceeding Rs. 1,000, but it was most marked in claims for less than Rs. 50. The institution of small suits appears to have been temporarily checked by the new procedure, but the Judges remark that "as the people became more accustomed to the change, suits began to increase, until, for a

month or so before the Doorga Poojah holidays, the files became choked with the rush that usually takes place about that time." Suits for sums above Rs. 1,000 exceeded the number anticipated. Before the 1st of July 34 suits of this kind were instituted by abandoning the excess in each case, but in the subsequent half-year the number rose to 134. The total number for trial during the year was thus 168. Generally it is said, in explanation of the fewer institutions, that a class of cases which were numerous and often for considerable sums are excluded by the new Act; that the year 1882 was prosperous and diminished litigation; and that the introduction of the new Code has not caused any decrease in suits above Rs. 50.

3. Notwithstanding the great reduction in the number of suits and of contested cases, the past year actually closed with larger arrears than its predecessor. This result, in itself not satisfactory, is thus accounted for by the Judges. The Chief Judge, who formerly tried all suits above Rs. 500, is now obliged to confine himself to suits above Rs. 1,000, and to allot a certain proportion of the former to each of the Judges. Each Judge is, therefore, called upon at present to try cases of a higher value than those previously falling to his share, and, as the time occupied by contested cases usually increases with the amount of the claim, the decrease in the number of suits has caused no real reduction in the amount of work. The new procedure has, further, given rise to a class of applications never received previously, in the disposal of which a good deal of time is absorbed: and this seems especially to be the case in the Court of the Registrar. The following account of the daily routine of work in each Judge's Court, furnished in a recent paper published by one of the Judges, shows how large a portion of the day is occupied with uncontested cases and applications before the contested cases are reached :—

"The Courts sit daily at 11 o'clock, and the practice in Calcutta is first of all to revise the board,—*i.e*, to call each case in its order, beginning with the summons cases. If the case is contested, the parties are told to stand down: if the defendant appears and admits the claim, the case is at once disposed of: if the defendant is absent, the plaintiff has to prove service of summons and the particulars of his claim, and he gets his decree: if the summons has not been served, he gets a second summons, and the case must be adjourned for a week or two at least to allow for the service of the second summons: if the case is compromised, the terms of the compromise have to be recorded. No procedure could be simpler than this, and allowing that two-thirds of the cases on each day's board go off in this way, the mere manual labour of recording the particulars and orders in each case takes some time. Each plaintiff and witness has to be sworn or solemnly affirmed and examined: books, vouchers, and accounts have to be examined: calculations have to be made: questions of limitation and stamp-duty crop up, and have to be enquired into and decided: applications for instalments, in cases where the claims are admitted, have to be decided. These are frequently opposed, and then the reasonableness of the application has to be enquired into and evidence taken. Then miscellaneous applications of all kinds, in contested and non-contested cases, are made, argued, and decided. So that by the time all this business is disposed of, *one-third* at least of the working day is gone. The first *two* hours of every day are occupied in this way alone, and there is no time wasted or lost. Now no statistics can ever show the character, importance, or amount of this work. But every suitor and legal practitioner is acquainted with it. When all this work has been got through, the Judges get to their *contested* cases—*i e*. cases defended either on the facts or the law or both.

The contested cases, again, are often fought out at considerable length, and when this happens the rest of the cases for the day, and even some of those for the following day, have frequently to be postponed, and an embarrassing accumulation of work ensues.

4. The Lieutenant-Governor accepts the explanation given in the report that the increase of arrears at the end of the past year indicates no slackening of work on the part of the Judges. The new law for the Presidency Small Cause Courts has been in operation only for six months of the year under review, and it would be premature to adopt any general conclusions from so short a period; but the Judges are aware that the Lieutenant-Governor has already recommended to the Government of India, on grounds which present results in some measure justify, the appointment of another Judge to the Court; and if the number of suits instituted again rises, and the arrears continue to increase from causes which are beyond the control of the Court as at present constituted, he will renew this recommendation. The receipts from fees would still leave a considerable surplus after provision for the additional expenditure;

and it is essential that in a Court, whose chief recommendation is a speedy disposal of causes, the staff of Judges should be sufficiently large to prevent delays in decision or accumulation of arrears. The Lieutenant-Governor observes with regret that the average duration of contested cases in the Court has risen from 31·3 to 54·8 days within the last two years.

5. The decrease in litigation in the past year occurred in every description of suits except those on verbal contracts and interpleader claims. The former rose from 2,563 to 3,079, but no adequate reason for the increase has been ascertained. Interpleader suits increased by 40, apparently owing to the classification of claims to attached property under this head in the returns for the year. Realizations under decrees were more satisfactory than formerly, from the greater facilities for execution which the new procedure supplies. The Judges state that the litigation of the year shows an increased tendency on the part of the trading community to deal in purely speculative contracts. "Formerly," they observe, "such classes of contracts were confined to Government securities (the amount generally being Rs. 25,000) or to shares; now we find they have been extended to gunny-bags and yellow metal, the contention of the parties in many of these cases not being an actual *bonâ fide* sale on one side or a purchase on the other, but simply to recover the difference, if any, of the market value of the goods on the date of delivery."

6. The amount in litigation during the year was Rs. 18,28,343, being nearly one lakh of rupees more than in 1881. The total fees realised were Rs. 2,77,111, and the net sum credited to Government was Rs. 66,701, after payment of the Judges' salaries and all other charges, amounting to Rs. 2,10,410.

ORDER.—Ordered that a copy of the above Resolution be communicated to the Judges of the Calcutta Court of Small Causes.

By order of the Lieutenant-Governor of Bengal,

F. B. PEACOCK,

Offg. Secretary to the Govt. of Bengal.

No. 147J—D.

COPY forwarded to the Chief Judge of the Colcutta Court of Small Causes for information.

By order of the Lieutenant-Governor of Bengal,

W. DUNBAR BLYTH,

Under-Secretary to the Government of Bengal.

DARJEELING,
The 12th April 1883.

C. E. G.—Reg. No. 123C—184—18-4-83.